

*In the Matter of Chief Clerk Surrogates*  
Docket No. 2006-3559  
**(Merit System Board, decided May10, 2006)**

The Director, Division of Human Resource Management (HRM), requests Merit System Board (Board) review of the establishment of the title Chief Clerk Surrogates in the career service.

For reasons that are not clear on the current record, the title of Chief Clerk Surrogates was established in the career service. Recently, Sussex County requested that it be able to make an unclassified appointment to this title. HRM has requested Board review to determine the propriety of the existence of the title in the career service. In this regard, HRM notes that *N.J.S.A. 2B:14-12* provides that “[a] Surrogate may, in his discretion, appoint an Executive Secretary and a Chief Clerk, both of whom shall serve at the pleasure of the surrogate.” There are no incumbents currently serving in the title, and the title has been temporarily inactivated, pending the Board’s review of this issue. A hearing was conducted on May 10, 2006, pursuant to *N.J.S.A. 11A:3-6*, to solicit comments from the public.

## **CONCLUSION**

*N.J.S.A. 11A:3-5* delineates the circumstances in which a title may be allocated to the unclassified service in local government. *N.J.S.A. 11A:3-5(u)* specifies that unclassified titles may be established “as provided by statute or as the [B]oard may determine in accordance with criteria established by rule.” *N.J.A.C. 4A:3-1.3(a)4* provides that, in local service, a title will be established in the unclassified service when “[a] specific statute provides that incumbents in the title serve for a fixed term or at the pleasure of the appointing authority.”

The statute establishing the title at issue, *N.J.S.A. 2B:14-12*, provides that the Chief Clerk and Executive Secretary to a Surrogate “shall serve at the pleasure of the [S]urrogate.” Based on the plain language of the statute, in conjunction with *N.J.A.C. 4A:3-1.3(a)4*, the Board finds that the title of Chief Clerk Surrogates is inappropriately allocated to the career service and should be reallocated to the unclassified service. Further, since there are no incumbents currently serving in the title, it is not necessary to address the retention of career service rights. See *N.J.A.C. 4A:3-1.1(c)*.

## **ORDER**

Therefore, it is ordered that the title of Chief Clerk Surrogates be reallocated to the unclassified service pursuant to *N.J.S.A.* 2B:14-12.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.